IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

OP.No. 12496 of 2003(K)

PETITIONER:

S.KRISHNAN NADAR, SANTHIGIRI, KOZHODU,
KATTACHALKUZHY P.O., VIA. BALARAMAPURAM.
(RETD. HEAD MASTER, M.C. HIGH SCHOOL,
KOTTUKALKONAM), THIRUVANANTHAPURAM.

BY ADV. SRI.ANIMON A. JOHN,
SRI.SEBASTIAN VARGHESE.

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**
2. **DIRECTOR OF PUBLIC INSTRUCTION, THIRUVANANTHAPURAM**
3. **DEPUTY DIRECTOR OF EDUCATION, THIRUVANANTHAPURAM**
4. **THE DISTRICT EDUCATIONAL OFFICER, NEYYATTINKARA.**
5. **THE ACCOUNTS OFFICER, OFFICE OF THE DEPUTY DIRECTOR OF EDUCATION, THIRUVANANTHAPURAM**
6. **THE HEADMISTRESS, M.C. HIGH SCHOOL, KOTTUKALKONAM, THIRUVANANTHAPURAM**

BY GOVERNMENT PLEADER SMT. SMITHA SUKUMARAN.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 26/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO. 21296/2003 IN O.P. NO. 12496/2003

DISMISSED

26/07/2007. **SD/- THOTTATHIL. B. RADHAKRISHNAN, JUDGE.**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE G.O. (RT). NO. 1315/2000/G. EDN. DTD. 01/04/2000.

EXT.P.2: COPY OF THE PROCEEDINGS NO. F.6-12498/02 DTD. 07/01/2003.

EXT.P.3: COPY OF THE LIABILITY CERTIFICATE FOR RS. 42,228.85 DTD. 31/10/1994.

EXT.P.4: COPY OF THE LETTER NO. F6/34258/98 DTD. 19/02/1999.

EXT.P.5: COPY OF THE CERTIFICATE DTD. 30/03/1999.

EXT.P.6: COPY OF THE LETTER NO. G2-41079/94 DTD. 29/07/1999.

EXT.P.7: COPY OF THE LIABILITY CERTIFICATE DTD. 27/09/1999.

RESPONDENT'S EXHIBITS: **NIL.**

//TRUE COPY//

prv.

Thottathil B. Radhakrishnan, J.

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O.P.No.12496 of 2003

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Dated this the 26th day of July, 2007.

JUDGMENT

Sri.J.Christhudas retired from service on 1-4-1994. His liabilities were not settled and retiral dues released. He died on 24-9-1998. His widow filed O.P.No.25043 of 1999. It was submitted on behalf of the Government before this Court that as per the order dated 12-5-1999, liability of Christhudas was fixed. By that time, the outer limit of three years had run out in terms of Note 3 to Rule 3 of Part III KSR. Therefore, by judgment dated 1-11-1999, this Court directed disbursement of the retiral benefits of Christhudas with interest at 12% from 1-4-1997 till date of payment. The Government issued Ext.P1 Government Order on the basis of that judgment to release the amount to the heirs of Christhudas. The question of passing on the liability or the fixation of liability on account of the Government paying interest was never taken up by the Government as a measure of imposition on the petitioner either before or after

Ext.P1 Government Order was issued. Learned Government Pleader points out that in 2002, there is a Government Order dated 27-3-2002 making officers personally liable to pay interest in cases of delayed issuance of NLC. That is only an executive decision of the Government and cannot act retrospectively, at any rate, to fasten the liability on the basis of the judgment issued by this Court dated 1-11-1999 or on the basis of Ext.P1 Government Order dated 1-4-2000. It is also not as if a person is not entitled to be heard at all even when the Government proposes action under the Government Order, 2002.

2. In the light of what is aforesaid, the recovery against the petitioner on the basis of Ext.P2 by treating the interest paid by the Government under the aforesaid judgment as a liability of the petitioner is unfounded. The same does not stand.

In the result, this writ petition is allowed quashing Ext.P2 to the extent it fixes the liability on the petitioner. The amounts due to the petitioner,

which have been retained by the Government, shall be released to him forthwith. Having regard to the facts and circumstances of the case, there will be no order as to interest or costs.

Thottathil B.Radhakrishnan,
Judge.

sl.

Thottathil B. Radhakrishnan, J.

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O.P.No.12496 of 2003

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JUDGMENT

Dated:26-7-2007